

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA, ex rel.
DARLENE C. SAMMARCO,

Civil No. 09-880 (JRT/JJK)

Plaintiff,

v.

ORDER

CAL LUDEMAN, JANE MORROW,
DANIEL DAUTH, DERRINDA
MITCHELL, LINDA BOGUT, DR.
MICHAEL POPKIN, TRACY ALLEN,
KAREN FOY, TOM MULLON, DR.
JONATHAN UECKER, and DR. JAMES
H. GILBERTSON,

Defendants.

On March 8, 2010, plaintiff Darlene Sammarco filed a “Declaration and Argument Against Judgment to Dismiss For Failure to Prosecute Co-Defendants Dr. Jonathan Uecker, PFI Tracy Allen, Dr. James Gilbertson and Cal Ludeman.” (Docket No. 173.) In that document, she states that she “never received the alleged January 28, 2010 Report and Recommendation by Magistrate [Judge] Keyes.” (*Id.* at 1-2.) The Court directs the clerk’s office to mail a copy of this Order, with an attached copy of the Report and Recommendation, to Sammarco.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Clerk of Court is **DIRECTED** to mail Darlene Sammarco a copy of this Order, with an attached copy of the Report and Recommendation dated January 28, 2010 [Docket No. 165];
2. The Court **MODIFIES** the deadlines for filing objections to the Report and Recommendation, contained on page 44 of the Report and Recommendation, as follows:

Under Local Rule 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties **by April 5, 2010**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. **A party may respond to the objecting party's brief within 14 days after service thereof.** All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.

Unless the parties stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and file a complete transcript of the hearing within fourteen days of receipt of the Report.

3. The Court **VACATES** its February 26, 2010, Order Adopting the Report and Recommendation [Docket No. 169], and **VACATES** the Judgment [Docket No. 172] in this case.
4. To the extent Sammarco requests the above-stated relief in her Declaration and Argument Against Judgment to Dismiss For Failure to Prosecute Co-Defendants Dr. Jonathan Uecker, PFI Tracy Allen, Dr. James Gilbertson

and Cal Ludeman” [Docket No. 173], the request is **GRANTED**. To the extent Sammarco requests any other relief in that Declaration and Argument, the request is **DENIED**.

DATED: March 22, 2010
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge